

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

IN RE:

**Quinland Farms Inc.
d/b/a Crossroads Discount Beverage
52 North Main Street
Waterbury, Vermont**

DECISION

The Liquor Control Board held proceedings in Montpelier, Vermont, on February 20, 2013, to consider the suspension or revocation of the Second Class License granted to Quinland Farms Inc., d/b/a Crossroads Discount Beverage, 52 North Main Street, Waterbury, Vermont, (hereinafter "Crossroads").

Crossroads was present by and through James Quinn, incorporated owner. Crossroads was not represented by an attorney. The Department of Liquor Control ("DLC") was present and represented by Assistant Attorney General Jacob A. Humbert.

A Notice of Hearing dated November 7, 2012, with Investigator's Report attached, was sent to Crossroads, by which it was alleged: that on October 3, 2012, its employee Joey Pratt was not properly trained to sell tobacco or alcohol as required by 7 V.S.A. § 239 which is in violation of Education Regulation 3(b).

Education Regulation 3(b) was duly adopted by the Liquor Control Board (hereinafter "LCB").

FINDINGS OF FACT

1. The Licensee, Quinland Farms Inc., d/b/a Crossroads Discount Beverage, 52 North Main Street, Waterbury, Vermont, is the holder of a Second Class License by which it is permitted to sell alcoholic beverages for off premise consumption.

2. Education Regulation 3(b) states:

Each licensee shall ensure that every employee who is involved in the preparation, sale, service or solicitation of alcoholic beverages or the sale of tobacco products, or enforcing of alcohol and/or tobacco laws and regulations must complete a training program offered or approved by the Department of Liquor Control before the employee beings working in that capacity and at least once every two years thereafter. Each licensee shall maintain written documentation, signed by each employee trained of each training program conducted. A licensee may comply with this requirement by conducting its own training program on its premises, using all information and materials furnished by the Department of Liquor Control, or from a program approved by the department. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of no less than one day of the license issued under this title.

3. On October 3, 2012, at approximately 9:30 p.m., DLC Investigator Jamie C.

Chase and DLC Investigator Jay Clark were at Crossroads for a routine inspection. Chase identified himself to one Joey Pratt, an employee at the register. Pratt was asked to produce his training records, which are required to be kept nearby and available.

4. After looking for awhile for those training records, Pratt announced that he could not find them. Pratt was then asked when he had been last trained and his response was that it was probably about a year ago. Pratt then asked to be able to call his manager Jeremy Allaire to ask him where those records were kept.

5. After his telephone conversation with Allaire, Pratt located the training records and produced them. The date on the training records that were produced stated that Pratt had been trained on September 27, 2012, just six days before.

6. Chase asked Pratt why he had forgotten that he had been trained just a week before, more or less, and the response was that he had on that day simply been asked to sign a form.

7. Further discussion between Pratt and Chase revealed that on September 27, 2012 Pratt had not been required to watch the DLC's training DVD, read the DLC ASAP booklet, nor

was he required to take the test on the back of the training certificate. Chase asked Pratt who took the test clearly printed on the back of the training certificate. Pratt stated that he did not take the test but he did sign the form as Allaire had asked him to do.

8. The training folder that Pratt had produced included a DLC training certificate from a seminar that Pratt had attended on April 8, 2010, which indicated that his training expired on April 8, 2012. When asked, Pratt stated that he had not received any DLC training since attending the training seminar which expired on April 8, 2012.

9. At that, Chase advised Pratt that he could no longer sell alcohol or tobacco products until he was trained. The training documents in question were seized.

10. Chase telephoned Allaire on the spot and revealed to Allaire the discrepancies on the training documents for Pratt and asked for Allaire to be honest with him about what happened.

11. Allaire initially stated that Pratt had received the training in accordance with DLC requirements as stated on the latest training certificate. Chase stopped Allaire and told him to take a breather and consider what he was saying and to start all over again but to be absolutely honest. Allaire started to explain again that he went over the “highlights” of the training with Pratt because Pratt knew what he was doing and had taken the training several times.

12. Allaire then stated that it was a burden to have to train employees every two years, particularly when they have been trained several times. Chase responded that whether it was a burden to him or not, it was a State requirement that everyone and anyone involved in the sales or service of alcohol or tobacco had to receive approved DLC training ever two years. Allaire was advised to contact James Quinn, the owner of the store, and explain what had happened.

13. On October 4, 2012, Chase contacted James Quinn by telephone. Chase explained the problem and what had happened the day before. Chase advised Quinn that he was concerned about the actions and attitude of the manager Allaire with respect to this issue.

14. Chase explained to Quinn that had he looked further into other employee training documents, he might have found further Educational Regulation 3(b) violations, but he did not do so.

15. Chase was concerned about Quinn's reaction to what Chase was telling him because Quinn did not ask many questions and their conversation was brief.

16. Chase advised Quinn that he would issue Crossroads a departmental ticket for violating General Regulation No. 7(a) for providing false information, which carried a \$500.00 fine. The \$500.00 was paid and is not a part of this proceeding. He also stated that he would issue a departmental ticket for violating Education Regulation 3(b). Quinn was advised this was a statutory regulation and required an automatic one day suspension.

17. Chase identified State's Exhibit 1 as the training certificate so-called stating that Joey Pratt received training on April 8, 2010 as an employee of Crossroads Beverage. Chase also identified State's 2 as a DLC preprinted form upon which Quinland Farms by and through the signature of Jeremy Allaire certified that on September 27, 2012, Joey Pratt received the DLC training by completing the test printed on the back of State's 2. Both were admitted without objection.

18. Chase did not on October 3, 2012 wish to pursue training certificate issues for other employees on the premises as he had no wish to maximize the problems for Crossroads. He intended to give Crossroads a heads-up, and time to correct any training shortcomings.
(Taken from the testimony of Investigator Chase).

19. At this point, the State rested.

20. James Quinn, owner of Crossroads, has been in business for 25 years and expressed appreciation for DLC training in the past. While he did not contest the charge made against Crossroads in the matter at hand, he did want to make a statement in mitigation.

21. Joey Pratt has been a Crossroads employee for seven years and is one of their best trained and responsible employees. No new employee at Crossroads works without being appropriately trained. If Investigator Chase had pursued the question of other possible Crossroads' employees perhaps not being trained, he would have found out that they were in fact all trained.

22. He wished to state that he is basically a quiet person and when he spoke with Chase on the telephone he mostly listened. He was in his vehicle on his cell phone when the conversation with Chase took place and he had to pull over and concentrated on listening.

23. Allaire is in his fifth year as an employee of Crossroads and is a good employee. He had a pointed discussion with Allaire and explained to him that Crossroads would not again tolerate Allaire failing to meet his obligations. He explained to Allaire that if it happened again, he would be fired; and he required Allaire to pay 50% of the fine associated with this incident. (Taken from the testimony of Quinn).

24. Quinn was shown a document entitled State's 3, represented to him as a summary of the enforcement history kept by the DLC showing any and all violations of DLC regulations and/or statutory violations committed by Crossroads.

25. At this point, the Board took a brief adjournment in order to give Quinn an opportunity to read State's 3 for his information.

26. The hearing was resumed a few moments later. It was pointed out to Quinn that State's 3 shows a few sales of tobacco to underage persons in the past which perhaps reflects a lack of quality training. Quinn had no objection to admission of State's 3, at which point the Licensee rested.

CONCLUSIONS

1. The Licensee, Quinland Farms Inc., d/b/a Crossroads Discount Beverage, 52 North Main Street, Waterbury, Vermont, is the holder of a Second Class License by which it is permitted to sell alcoholic liquor for on premise consumption.

2. Education Regulation 3(b), which is set forth in full in the Findings, mandates that each licensee ensure that employees involved in the preparation, sale, service or furnishing of alcoholic beverages or tobacco products, must complete a training program offered or approved by the Department of Liquor Control at least once every two years. A licensee who fails to comply with this requirement shall be subject to a suspension of no less than one day of the license issued under Title 7.

3. The incident at Crossroads on October 3, 2012, involved not only a violation of Education Regulation 3(b) but also a violation of General Regulation No. 7(a). As we have stated, the General Regulation No. 7(a) violation has been resolved and is not a part of this proceeding. Crossroads paid a \$500.00 penalty to resolve it.

4. There is no question however that the remaining issue, the violation of Education Regulation 3(b) as was alleged in the Notice of Hearing in fact occurred. The Board determines this as a conclusion not only by the un-refuted testimony of DLC Investigator Jamie Chase, but also by the admission of Quinn. A one day suspension of the Second Class License is mandated by statute.

5. The Board also requires that mandatory DLC training be successfully completed by all Crossroads employees who sell or furnish alcohol and tobacco products, including all employees who train and supervise such employees.

DECISION

It is the determination of the Liquor Control Board that the Second Class License granted to Quinland Farms Inc., d/b/a Crossroads Discount Beverage, 52 North Main Street, Waterbury, Vermont, be suspended for a period of one day. Said suspension shall occur on June 27, 2013. Said license shall be reinstated and effective at the opening of business on June 28, 2013. During the period of suspension, Crossroads shall not sell or furnish alcoholic beverages to or from the licensed premises.

In addition, on or before sixty (60) days from the date of this Decision, each and every employee who sells or furnishes alcohol and tobacco products, including all employees who train and supervise such employees, shall successfully complete mandatory DLC training.

Dated at So. Burlington, Vermont, on this 3rd day of May, 2013.

LIQUOR CONTROL BOARD

By: Stephanie M. O'Brien
Stephanie M. O'Brien, Chair



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Michael J. Hogan, Commissioner

May 13, 2013

Quinland Farms, Inc.,
d/b/a Crossroads Discount Beverage
52 North Main Street
Waterbury VT 05676

Dear Licensee:

Enclosed, please find the Board's decision regarding violation of General Regulation number 3(b).

The resulting decision is for a one day suspension to start on June 27, 2013 as well as all Quinland Farms, Inc., employee's need to be trained by DLC no later than sixty days from this date.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. J. Goggins".

William J. Goggins, Chief
Vermont Department of Liquor Control
Education, Licensing & Enforcement Director

cc: Investigator Chase
Town of Waterbury



Liquor Control Board:

Stephanie M. O'Brien, Chair, John P. Cassarino, Thomas Gallagher, Julian Sbardella, Melissa Mazza, Members

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PS Form 3800, August 2006

See Reverse for Instructions